

DAVID Y. IGE  
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DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
P.O. BOX 621  
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**STAFF SUBMITTAL**

**COMMISSION ON WATER RESOURCE MANAGEMENT**

Honolulu, O'ahu

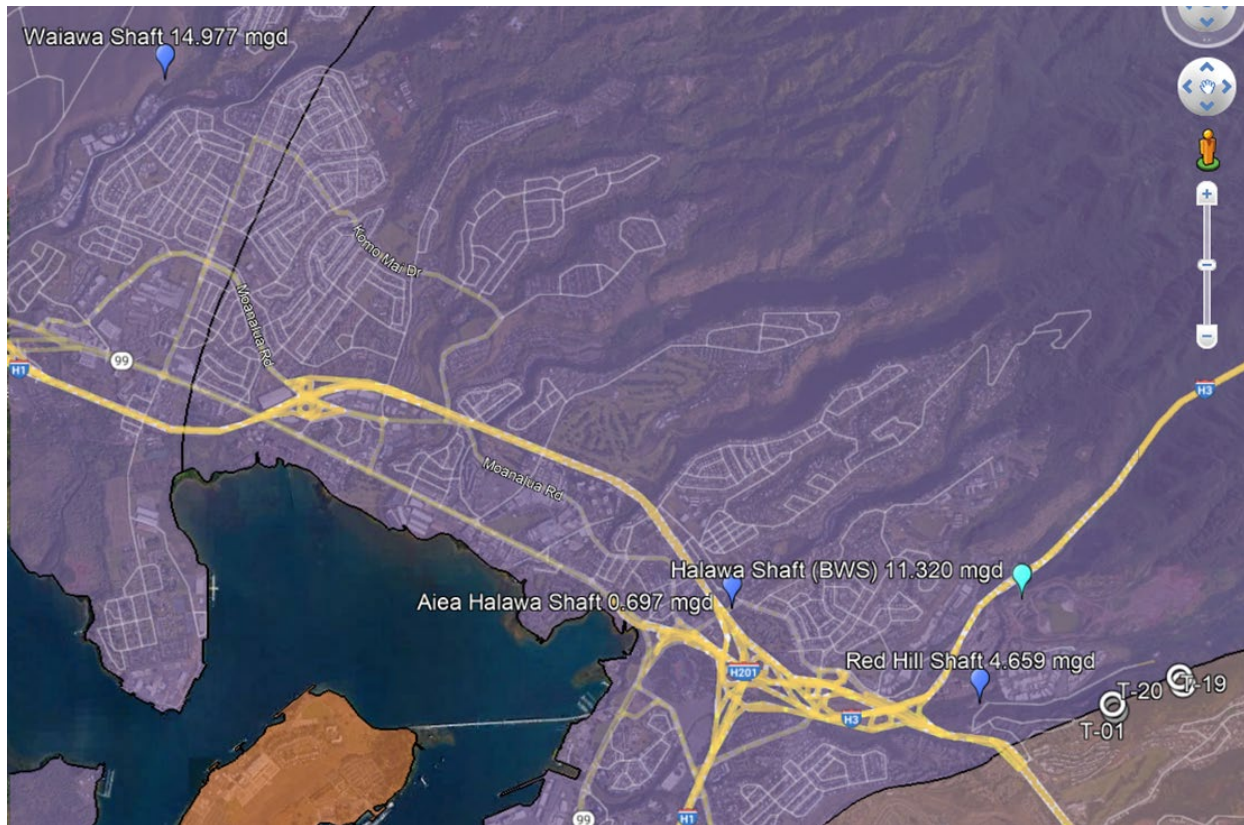
Briefing by Department of Health and Naval Facilities Engineering Systems Command Hawai'i (NAVFAC Hawai'i) on Red Hill, Discussion on NAVFAC Hawai'i Ground Water Use Permits 00085 (Red Hill Shaft - Well No. 3-2254-001), 00086 ('Aiea-Hālawā Shaft - Well No. 3-2255-032), and 00111 (Waiawa Shaft - Well No. 3-2558-010), Moanalua and Waipahu-Waiawa Aquifer System Areas, O'ahu; and Action Thereon, including a Decision by the Commission as to Whether to Establish a Permitted Interaction Group Pursuant to HRS 92-2.5.

SUMMARY OF REQUEST:

There will be a briefing by the Department of Health and Naval Facilities Engineering Systems Command Hawai'i (NAVFAC Hawai'i) on Red Hill, followed by staff presentation on background of NAVFAC Hawai'i Ground Water User Permits and water resources.

Based on the briefing and discussion, the Commission may take actions as appropriate.

Staff recommends establishment of a Permitted Interaction Group.

LOCATION MAP:BACKGROUND:

- The U.S. Navy's Red Hill Bulk Fuel Storage Facility (Red Hill Facility) was constructed in the early 1940s. This underground facility is comprised of 20 steel fuel storage tanks, each with the capacity of around 12.5 million gallons of jet or marine fuel. This fuel supplies the military services in the Pacific Area of Responsibility. The Red Hill Facility is located approximately 100 feet above the Moanalua aquifer system area. (Hawaii Department of Health Docket No. 21-UST-EA-02, Hearings Officers Proposed Decision and Order, Findings of Fact, and Conclusions of Law filed 12/27/2021). The Navy generally stores fuel at the Red Hill Facility in 14 or 15 underground storage tanks with a capacity of over 187 million gallons of fuel.
- There is a record of fuel releases from the Red Hill Facility going back 80 years or so including at least 76 incidents totaling nearly 200,000 gallons of fuel. It is expected that there will continue to be releases in the future from the Red Hill Facility.
- In September 2016, the Navy entered into an administrative order of consent (AOC) with the Environmental Protection Agency and the Hawai'i Department of Health. The AOC outlined actions necessary to address the potential impacts to human health and safety and the environment.
- On November 20, 2021, a release of approximately 14,000 gallons of fuel from the Red Hill Facility is believed to have entered a fire suppression system and subsequently introduced into the Red Hill Shaft (the Navy's largest drinking water source). The exact cause(s) of this was not fully explained. This contaminated water was pumped into the Navy's drinking water distribution system and made its way into the Joint Base Pearl Harbor-Hickam (JBPHH) water system customers facilities and homes.

- On December 6, 2021, the Hawai‘i Department of Health issued the Emergency Order (EO) to the Navy to (1) suspend Red Hill Facility operations, (2) install drinking water treatment systems at Red Hill Shaft, (3) submit a workplan and implementation schedule to assess Facility operations and system integrity to defuel the Facility, (4) after corrective actions, defuel the bulk fuel tanks at the Facility, and (5) submit a workplan and implementation schedule to assess operations and system integrity to determine design and operational deficiencies that may impact the environment and develop recommended corrective actions. The Navy subsequently requested a hearing on the Executive Order.
- On December 7, 2021, in response to the EO, the Secretary of the Navy issued a Memorandum for immediate actions for the Red Hill Underground Storage tanks, including cessation of all operations of the Red Hill underground storage tanks, and to assess the integrity of the Red Hill Facility.
- The Hearings Officer held an evidentiary hearing on December 20 and 21, 2021 with the Hawai‘i Department of Health, the Navy, and intervenors Honolulu Board of Water Supply and Sierra Club.
- On December 27, 2021, the case Hearings Officer issued its proposed Decision and Order upholding the December 6, 2021 Emergency Order in its entirety.
- On January 3, 2021, the Hawai‘i Department of Health Deputy Director Marian Tsuji sustained the proposed Decision and Order adopted it as the final Decision and Order. (Hawai‘i Department of Health Docket No. 21-UST-EA-02, Final Decision and Order, Findings of Fact, and Conclusions of Law filed 1/03/2022).
- The Navy has three sources of water for their JBPHH potable water system. These are:
  - 3-2255-032 Aiea-Halawa Shaft, constructed in 1937 (Water Use Permit no. 00086 issued in 1980 for 0.697 mgd); and
  - 3-2254-001 Red Hill Shaft, constructed in 1943 (Water Use Permit no. 00085 issued in 1980 for 4.659 mgd);
  - 3-2558-010 Waiawa Shaft, constructed in 1951 (Water Use Permit no. 00111 issued in 1980 for 14.977 mgd).
- Since these Water use permits were issued prior to the establishment of the State Water Code, they were issued by the Board of Land and Natural Resources under the Ground-Water Use Act of 1961.
- The current situation has been a looming threat for many years, despite consistent concerns expressed by Hawai‘i’s citizens, non-profit groups, and State agencies, including this Commission. See Exhibit 1 for Commission statements.
- The contamination of the Moanalua aquifer system area and possibly the adjacent Waimanu aquifer system area caused the Honolulu Board of Water Supply (HBWS) to shut down three of its water sources in the area (Hālawa Shaft, ‘Aiea Wells, and Hālawa Wells). This was done as a precaution since it is unknown whether the contamination would affect these wells. These wells have a combined water use permit allocation of 13.7 million gallons per day (MGD) supplying water to the HBWS metro water system. The HBWS has developed an emergency response strategy to address the loss of its three sources. This strategy includes reducing customer demands, increasing use of its other sources, monitoring, and new source development. Increasing HBWS withdrawals may have implications for water use permits and withdrawals approaching aquifer sustainable yields in the Pearl Harbor and Honolulu aquifer sector areas.

- The Navy is currently implementing a water distribution system flushing plan and is developing a Red Hill Shaft Recovery and Mitigation Plan (RHSRMP) as part of its National Pollutant Discharge Elimination System (NPDES) permit application with the Hawai'i Department of Health. The current draft RHSRMP proposes to flush the Red Hill Shaft at a rate of 5 MGD through granular activated carbon (GAC) filters, with possible increases to 18 MGD, if possible, without entraining fuel into the pumped water.

#### LEGAL AUTHORITY:

##### Hawaii Revised Statutes §92-2.5 Permitted interactions of members

(b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to:

*(1) Investigate a matter relating to the official business of their board; provided that:*

*(A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;*

*(B) All resulting findings and recommendations are presented to the board at a meeting of the board; and*

*(C) Deliberation and decisionmaking on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board; or*

*(2) Present, discuss, or negotiate any position which the board has adopted at a meeting of the board; provided that the assignment is made and the scope of each member's authority is defined at a meeting of the board prior to the presentation, discussion, or negotiation.*

(e) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; and provided further that no commitment relating to a vote on the matter is made or sought.

At the next duly noticed meeting of the board, the board members shall report their attendance and the matters presented and discussed that related to official board business at the informational meeting or presentation.

(h) Communications, interactions, discussions, investigations, and presentations described in this section are not meetings for purposes of this part. [L 1996, c 267, §2; am L 2005, c 84, §1; am L 2012, c 177, §1]

##### Hawaii Revised Statutes §174C-2 Declaration of policy

(d) The state water code shall be liberally interpreted to protect and improve the quality of waters of the State and to provide that no substance be discharged into such waters without first receiving the necessary treatment or other corrective action. The people of Hawaii have a substantial interest in the prevention, abatement, and control of both new and existing water pollution and in the maintenance of high standards of water quality. The general powers and duties of the Commission (HRS 174C-5) are attached as Exhibit 2.

RECOMMENDATION:

Staff recommends that the Commission:

- 1) Establish a Permitted Interaction Group (PIG) of three Commissioners with the scope of identifying specific actions for the broader Commission to take within its jurisdiction at subsequent meetings. The Commission shall delegate authority to each member of the PIG to carry out all actions necessary to accomplish the PIG's scope of work. The PIG's initial scope of work is as follows:
  - a) Recommend potential permit modifications and conditions for the NAVFAC Hawai'i Water Use Permits, including but not limited to:
    - i) A required implementation schedule, monitoring protocol, and enforcement of the Drinking Water Sampling Plan approved by the Department of Health.
    - ii) Determine the appropriate ground water monitoring model to be used by the Commission to enforce its Water Use Permits issued to the Navy.
    - iii) Recommend ways for the Commission to be fully represented at the decision-making table concerning the future of the Red Hill Fuel Bulk Storage Facility.
    - iv) Suggest how the Commission can assist in public disclosure of the status of the Red Hill Facility, including the progress of Navy actions to defuel its petroleum fuel storage tanks, with attendance by informed Navy officials at future Water Commission meetings.
    - v) Ensure that agreed upon water-quality and ground water sampling is conducted by the Navy, and that all monitoring results and risks are shared quickly and transparently with the Commission, State Department of Health, and the Honolulu Board of Water Supply.
    - vi) Any other issues related to current and future Navy applications for permits and water usage that address potential short and long-term impacts on the Pearl Harbor and Honolulu Aquifer.
  - b) Recommend potential permit modifications and conditions for other Water Use Permits, including the Honolulu Board of Water Supply, to immediately deal with the current water crisis and contamination event at Red Hill.
  - c) Investigate whether a water shortage exists in the Pearl Harbor aquifer sector area or Honolulu aquifer sector area pursuant to HRS 174C-62, and whether the Pearl Harbor Water Shortage Plan is activated and should be followed.
  - d) Review proposed expansion of monitoring network of wells at Red Hill and propose recommendations as appropriate.
  - e) Review the legal options the Commission can pursue.

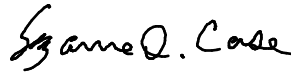
Respectfully submitted,



M. KALEO MANUEL  
Deputy Director

Exhibits:       1 Commission Statements  
                  2 General Powers and Duties - HRS §174C-5

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink that reads "Suzanne D. Case". The signature is written in a cursive, flowing style.

SUZANNE D. CASE  
Chairperson



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
P.O. BOX 621  
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June 17, 2015

Dr. Keith Kawaoka, Deputy Director  
Hazard Evaluation and Emergency Response Office  
Department of Health  
919 Ala Moana Blvd., Room 206  
Honolulu, Hawaii 96814

Dear Dr. Kawaoka:

Comments on the Draft Red Hill Bulk Fuel Storage Facility  
Administrative Order on Consent (AOC) and Scope of Work (SOW) by the  
U. S. Navy and Hawaii Department of Health

Thank you for the opportunity to submit our comments on the draft Red Hill AOC and SOW.

As a past and continued member of the Task Force Committee, the DLNR/CWRM acknowledges that the Red Hill Bulk Fuel Storage Facility (RHBFSF) is a 'mission critical' facility for maintaining security through the presence of the military in the Pacific, and very likely will need to remain in service. However, the facility is 70+ years old, and while efforts have been made to maintain and upgrade the entire system, the facility's 20 tanks do not meet the minimum requirements of every commercial underground storage tank installed in Hawaii since 1988: double wall construction, combined with leak detection sensors.

During an April 16, 2015 public meeting, the Navy disclosed that the January 2014 release of up to 27,000 gallons of JP-8 from Tank 5 was due to poor contractor workmanship. This disclosure draws into question the effectiveness of the Navy's Quality Assurance/Quality Control (QA/QC) program, and more importantly, the effectiveness of the Navy's inspectors to ensure the proper completion of repairs to the fuel system, and in this case, repairs to Tank 5, located 100 feet above an important drinking water aquifer.

While the potable water withdrawn from the production wells proximal to the RHBFSF currently meets Safe Drinking Water standards, the long history of releases from this facility (and most recently the January 2014 release from Tank 5), makes it very clear that the drinking water aquifer beneath the site, which already has been impacted, is at serious risk to significant impacts from historical, as well as potential future releases.

The release history of this facility (~150,000 gallons [Final: 2008 RHBFSF Groundwater Protection Plan]) underscores the need for the Navy to accelerate their efforts to implement the following:

- 1) upgrade the facility to effectively eliminate future releases,
- 2) locate and delineate the vertical and horizontal extent of released fuel, and
- 3) develop and implement an effective mitigation/recovery of the released fuel to protect the drinking water supply in the vicinity of the facility.

We offer more detailed specific comments as follows:

1. AOC, Page 5, 4 (k): Aquifer names should be correctly labeled as Aquifer System Areas (ASA).
2. AOC, Page 5, 4 (k): Correction, the current Waimalu and Moanalua ASA properties are:  
Waimalu ASA covers 54,227 acres, and has a sustainable yield (SY) of 45 million gallons per day  
Moanalua ASA covers 14,713.5 acres, and has a SY of 16 million gallons per day.
3. AOC, Page 18, 13. (a): The Department of Health, the Honolulu BWS, and the DLNR/CWRM are all acting on behalf of public's safety by providing manpower and logistics in supporting and assisting the Navy in monitoring and managing this serious threat to Honolulu's drinking water supply from a Federally owned and managed facility. Each of these agencies should be reimbursed for their reasonable and appropriate efforts and expenditures.
4. SOW, Page 1, Introduction: In accord with House Resolution 78 (Extending the Task Force), House Concurrent Resolution 66 (Collaboration Between the State and the Navy), and C&C Honolulu Resolution 15-84, CD1, FD1 (Expediently Implement the Task Force Recommendations), the "Parties" should include the Navy, DLA, DOH, EPA, BWS, and DLNR/CWRM.
5. SOW, Page 1, (2), 2<sup>nd</sup> sentence: Best Available Practicable Technology (BAPT). This study should identify and evaluate all available, and applicable, (including emerging) technologies.  
  
4<sup>th</sup> sentence: Given the gravity of the risks, once a BAPT has been chosen and approved, concerted efforts should be made to complete the upgrades on a more timely schedule than 22 years.  
- How will the order of the Tanks to receive the BAPT be determined?  
- How will a change in the BAPT be implemented?
6. SOW, Page 1, (3): Until the in-service tanks are successfully fitted with the chosen BAPT, annual testing, at a minimum, should be conducted.
7. SOW, Page 2, (4): Before additional ground water modelling efforts are conducted, a comprehensive well head (i.e., reference point for depth to GW measurements) elevation survey of all currently monitored wells, combined with at least two synoptic water level surveys in all accessible monitoring wells, is to be completed and submitted to the DOH within 30 days of the acceptance of the AOC.
8. SOW, Page 2, Overall Project Management, 1.1: Subject matter experts (BWS, DLNR/CWRM), particularly the Red Hill Task Force members, should be invited to attend and provide comments at the scoping meetings. (See Comment 4. above)
9. SOW, Page 2, 1.2 Community Involvement: To promote transparency and improve public confidence, the Navy and DLA should compile all past historic records of leaks and submit them to the DOH, to augment and complete the existing DOH public record.
10. SOW, Page 2, 1.5 Communication: Define "effective and timely", (e.g., Periodic GW Monitoring reports must be submitted to the regulatory agency (DOH) no later than 30 days after collection of samples.
11. SOW, Page 5, 3.5 TUA: How will the tanks be ranked for upgrading to the BAPT?



12. SOW, Page 11, 6. Investigation and Remediation: This section only refers to the January 2014 release. This facility has a long history of releases, totally up to 150,000 gallons since 1944. The Investigation and Remediation effort should address the suite of products released that threaten the ground water resource beneath the facility.
13. SOW, Page 12, 7. Ground Water Protection and Evaluation: This section describes Groundwater Flow and Fate and Transport models, followed by a section describing a Ground Water Monitoring Well Network. To improve ground water modelling relevance and accuracy, additional groundwater monitoring wells should be installed before modelling efforts are begun to provide actual ground water data for model input and calibration. The Groundwater Monitoring Well Network program should, at a minimum, include a discussion of the following:
  - Specific wells (existing and proposed) to be monitored and sampled.
  - Analytical suites (including analytical methods, detection limits, and applicable action levels) to be used. This list of suites should include those to detect released products, and general ground water chemistry to assess in-situ product attenuation and degradation.
  - The Program should also include a schedule for monitoring (i.e., quarterly), and a discussion of duration of monitoring, responsible parties, and monitoring data storage and dissemination.

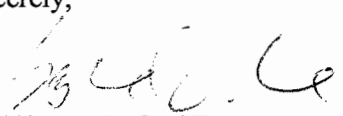
Lastly, with the urgency of this issue, the time frames to complete the Reports should be shorter.

Currently, the approximate time frames in the SOW are:

Sect 2, TIRM Procedure Report Implementation (~9 months),  
Sect. 3, TUA Decision Document and Implementation (~20 Months),  
Sect. 4, New Release Detection Alternatives Decision Document and Implementation (~24 Months),  
Sect. 5, Decision on Need for & Scope of Modified Corrosion and Metal Fatigue Practices (~35 Months),  
Sect. 6, Investigation and Remediation of Release Decision Document and Implementation (~31 Months),  
Sect. 7, Contaminant Fate and Transport Model Report (~32 Months),  
Sect. 7, Ground Water Monitoring Well Network Decision Document and Implementation (~20 Months),  
Sect. 8, Risk/Vulnerability assessment (~22 Months).

We respectfully ask that these timeframes be shortened where reasonably possible, especially establishing and implementing the ground water monitoring network to provide the scientific data and evidence to establish the location of the current plume of contamination.

Sincerely,



SUZANNE D. CASE  
Chairperson

## EXHIBIT 1: Commission Statements

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
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February 4, 2016

Dr. Keith Kawaoka, Deputy Director  
State of Hawaii  
Department of Health  
Hazard Evaluation and Emergency Response Office  
919 Ala Moana Blvd., Room 212  
Honolulu, Hawaii 96814

Dear Dr. Kawaoka:

Commission on Water Resource Management Additional Testimony on the  
Red Hill Administrative Order on Consent (AOC) and Scope of Work (SOW)  
EPA DKT NO. RCRA 7003-R9-2015-01 / DOH DKT NO. 15-UST-EA-01 by the  
U.S. Environmental Protection Agency,  
U.S. Navy & Defense Logistics Agency and the State of Hawaii Department of Health

This testimony was approved by the Commission on Water Resource Management's (CWRM) at its January 28, 2015 meeting by all its members with the exception of the Director of Health and Commissioner Pavao, who were not present.

In its August 14, 2015 testimony (attached), the Hawaii State CWRM did not support the proposed Red Hill AOC and SOW as written. The CWRM's position was that the documents lacked public transparency, corrective action specificity, and the immediate implementation of improvements. The Tank 5 leak which occurred, even after completing a multi-year clean-inspect-repair and modernization process, clearly demonstrated that a status quo approach will not adequately address the CWRM's concerns about the facility storing 187 million gallons of fuel located 100 feet above a State designated drinking water aquifer; mitigate fuel contaminants already in the groundwater underneath that facility; arrest the corroding condition of the tanks' thin 1/4 inch steel wall and their fortification to minimize the risks of a large fuel release contaminating the aquifer.

This aquifer is the only one of its kind; is essential for the well-being of Honolulu as one of the world's great cities; and there are no cost effective alternatives that can replace it. The State of Hawaii cannot countenance a long-term continuation of the significant, avoidable threat that the deteriorating Red Hill Tanks pose to the primary potable source wells for the Honolulu Board of Water Supply (BWS). The CWRM was in agreement with the BWS, the Honolulu City Council, and the Senate of the State of Hawaii, in calling for fast action and the double-lining of the tanks with monitoring facilities between the inner and outer walls.

Dr. Keith Kawaoka  
Page 2  
February 4, 2016

The CWRM has reviewed the final AOC and SOW agreement signed on September 28, 2015. The CWRM believes that the 20-year timetable for the improvements, following the current two-year planning period to determine which technology would work best, is too long, given the urgency of the problem. We are troubled by the lack of transparency and the use of clauses such as "as needed" and "as soon as practical" for important remedial actions which make enforcement and monitoring problematic at best.

The final SOW only requires the parties to seek the technical advice "as needed" and to "facilitate sharing of information," which may be redacted, with major stakeholders, but only after they have signed a confidentiality agreement. This change to the SOW does not provide for the open and unrestricted consultation and participation by major stakeholders. To remedy this, CWRM believes that it and other major stakeholders should be able to review and comment on all work plans and deliverables prior to final approval. We believe that the citizens of Oahu and its major stakeholders deserve a transparent AOC process and public availability of work plans and reports produced under the AOC and SOW.

The CWRM believes the hosting of public meetings annually is inadequate and urge the parties to hold quarterly or semi-annual public meetings instead of annual. We must re-emphasize that release of documents should not be limited to final deliverables, but should include other documents including, but not limited, to scopes of work, regulatory agency written responses, and technical memoranda.

The final SOW states *"If gaps in groundwater monitoring well data are identified and validated, Navy and DLA will begin installation of additional monitoring wells as soon as possible."* We need immediate efforts to improve groundwater monitoring, not "as soon as possible". This leaves the decision about installing new groundwater monitoring wells open to one or more unspecified members of the parties and an unspecified validation process for identified data gaps. There are already disagreements as BWS's manager testified in October that the water tested in the aquifer below the Red Hill underground fuel storage tank facility is contaminated, pointing out that a monitoring well showed elevated levels of jet fuel components in April — 15 months after a spill of about 27,000 gallons of fuel in January 2014. That assertion was rebutted by Navy Captain Dean Tufts, regional engineer for Navy Region Hawaii, who said the reading was not proof that jet fuel had leaked into the aquifer and noted that subsequent tests showed no elevated levels. This disagreement between the Navy and city water officials has worried the public about the leak's past and potential impact on Oahu's groundwater supply. The potential for the migration of fuel that has already leaked from the Red Hill facility or may leak in the future demands increased and transparent monitoring protocol.

The CWRM recommends the immediate preparation of an emergency response plan in the event of a catastrophic release of fuel from the tanks. The plan should be enforceable with specific timetables, responsibilities and committed resources.

Dr. Keith Kawaoka  
Page 3  
February 4, 2016

There is too much uncertainty about how the Navy will proceed in upgrading the Red Hill facility. The CWRM believes the final agreements do too little over too long a period of time. The Navy must do better. The Hawaii State CWRM hereby requests that our Honorable U.S. President Barack Obama and Administration, the U.S. Navy, Hawaii's Senatorial and Congressional Delegations, the U.S. EPA, and other Federal or State Agencies to do whatever is needed to expeditiously mitigate and cure the threat posed to Oahu's water resources by the deteriorating Red Hill Tanks.

Sincerely,



SUZANNE D. CASE  
Chairperson

RH:ss

Attachment (August 14, 2015 CWRM Testimony)

- c: President Barack Obama, President of the United States  
General Martin E. Dempsey, Chairman of the Joint Chiefs  
Rear Admiral Richard L. Williams, Commander, Navy Region Hawaii, U.S. Navy  
Honorable Renee L. Roman, Chief of Staff, Defense Logistics Agency, U.S. Navy  
Honorable Jeff Scott, Director, Land Division Region 9, U.S. Environmental Protection Agency  
Honorable Brian Schatz, U.S. Senate  
Honorable Mazie Hirono, U.S. Senate  
Honorable Tulsi Gabbard, U.S. House of Representatives  
Honorable Mark Takai, U.S. House of Representatives  
Governor David Ige, State of Hawaii  
Lieutenant Governor Shan Tsutsui, State of Hawaii  
Hawaii State Legislators  
Mr. Ernie Lau, Manager Chief Engineer, Honolulu Board of Water Supply  
The Honolulu Star-Advertiser

## EXHIBIT 2: General Powers and Duties – HRS §174C-5

The general administration of the state water code shall rest with the commission on water resource management. In addition to its other powers and duties, the commission:

- (1) Shall carry out topographic surveys, research, and investigations into all aspects of water use and water quality;
- (2) Shall designate water management areas for regulation under this chapter where the commission, after the research and investigations mentioned in paragraph (1), shall consult with the appropriate county council and county water agency, and after public hearing and published notice, finds that the water resources of the areas are being threatened by existing or proposed withdrawals of water;
- (3) Shall establish an instream use protection program designed to protect, enhance, and reestablish, where practicable, beneficial instream uses of water in the State;
- (4) May contract and cooperate with the various agencies of the federal government and with state and local administrative and governmental agencies or private persons;
- (5) May enter, after obtaining the consent of the property owner, at all reasonable times upon any property other than dwelling places for the purposes of conducting investigations and studies, or enforcing any of the provisions of this code, being liable, however, for actual damage done. If consent cannot be obtained, reasonable notice shall be given prior to entry;
- (6) Shall cooperate with federal agencies, other state agencies, county or other local governmental organizations, and all other public and private agencies created for the purpose of utilizing and conserving the waters of the State, and assist these organizations and agencies in coordinating the use of their facilities and participate in the exchange of ideas, knowledge, and data with these organizations and agencies. For this purpose the commission shall maintain an advisory staff of experts;
- (7) Shall prepare, publish, and issue printed pamphlets and bulletins as the commission deems necessary for the dissemination of information to the public concerning its activities;
- (8) May appoint and remove agents, including hearings officers and consultants necessary to carry out the purposes of this chapter, who may be engaged by the commission without regard to the requirements of chapter 76 and section 78-1;
- (9) May hire employees in accordance with chapter 76;
- (10) May acquire, lease, and dispose of such real and personal property as may be necessary in the performance of its functions, including the acquisition of real property for the purpose of conserving and protecting water and water related resources as provided in section 174C-14;
- (11) Shall identify, by continuing study, those areas of the State where salt water intrusion is a threat to fresh water resources and report its findings to the appropriate county mayor and council and the public;
- (12) Shall provide coordination, cooperation, or approval necessary to the effectuation of any plan or project of the federal government in connection with or concerning the waters of the State. The commission shall approve or disapprove any federal plans or projects on behalf of the State. No other agency or department of the State shall assume the duties delegated to the commission under this paragraph, except that the department of health shall continue to exercise the powers vested in it with respect to water quality, and except that the department of business, economic development, and tourism shall continue to carry out its duties and responsibilities under chapter 205A;
- (13) Shall plan and coordinate programs for the development, conservation, protection, control, and regulation of water resources based upon the best available information, and in cooperation with federal agencies, other state agencies, county or other local governmental organizations, and other public and private agencies created for the utilization and conservation of water;
- (14) Shall catalog and maintain an inventory of all water uses and water resources; and (15) Shall determine appurtenant water rights, including quantification of the amount of water entitled to by that right, which determination shall be valid for purposes of this chapter. [L 1987, c 45, pt of §2; am L 1988, c 141, §12; am L 1990, c 293, §8; am L 1998, c 101 §2; am L 2000, c 253, §150; am L 2002, c 35, §1; am L 2006, c 300, §7]